

- ii. a physical agent prescribed by the regulations as a hazardous physical agent.

(2) The said section 1 is further amended by adding thereto the following subsection:

Exception re:
hazardous
materials

(2) Unless the regulations provide otherwise, a combination of biological and chemical agents or of either of them shall be deemed not to be a hazardous material if the ingredient that is a hazard to the health or safety of a worker is less than 1 per cent by weight of the combination.

2. The said Act is amended by adding thereto the following sections:

Hazardous
materials
inventory

22a.—(1) An employer shall make or cause to be made and shall maintain an inventory of all hazardous materials that are present, used, handled or stored in the work place.

Idem

(2) The inventory required by subsection (1) shall,

- (a) identify the ingredients of a hazardous material by the genus and species if the ingredients are biological agents or by chemical and generic names if the ingredients are chemical agents;
- (b) indicate all areas in or at the work place where the material is or may be present, used, handled or stored; and
- (c) state its date of completion and the name or names of the person or persons who prepared it.

Idem

(3) The inventory required by subsection (1) shall be prepared in consultation with the joint health and safety committee, if any, and where no such committee exists, in consultation with a worker selected by the workers to represent them.

Exception

(4) An employer is not in contravention of clause (2) (a) if the employer has made every effort reasonable in the circumstances to identify or obtain the identity of the ingredients of a hazardous material.

Notification
of Ministry

(5) An employer shall advise a Director in writing if the employer, after making reasonable efforts, is unable to identify or obtain the identity of the ingredients of a hazardous material.

(6) An employer shall prepare a notice of change with respect to an inventory required by subsection (1) within fifteen days of, Changes in inventory

- (a) a hazardous material not in the inventory being brought into or being found to be in the work place; or
- (b) a hazardous material listed in the inventory ceasing to be present in the work place if it is not likely to be present in the work place in the foreseeable future.

(7) Where an inventory required by subsection (1) is amended during a year, the employer, not later than the 1st day of February in the following year, shall prepare a revised version of the inventory incorporating all changes made during the preceding year. Idem

(8) A copy of the most recent version of the inventory required by subsection (1) and every notice of change in relation thereto, forthwith after preparation, shall be, Inventory to be made available

- (a) posted by the employer in the work place in such a manner as to allow examination by the workers;
- (b) furnished by the employer to the joint health and safety committee, if any, or to a worker selected by the workers to represent them;
- (c) filed by the employer in the office of the Ministry nearest the work place and the Ministry, at the request of the worker shall make the filings of the worker's employer available for inspection by the worker; and
- (d) furnished by the employer to the fire department of the municipality in which the work place is located and to the medical officer of health of the health unit in which the work place is located.

(9) Upon the request of any person, the most recent version of an inventory and every notice of change in relation thereto furnished to a medical officer of health under subsection (8) shall be made available by the medical officer of health for inspection by the person. Public inspection of inventory

(10) The duty to maintain an inventory of hazardous materials as set out in subsection (1) does not apply to any Transition

employer until the day ninety days after this section comes into force.

Hazardous materials, labels and data sheets

22b.—(1) A person who brings into Ontario or who, in Ontario, distributes or supplies, directly or indirectly, or manufactures or produces a hazardous material for use in a work place shall ensure that,

- (a) every container of the material bears or has securely affixed to it a label containing such information and in such form as may be prescribed; and
- (b) an unexpired material safety data sheet for the material containing such information and in such form as may be prescribed is readily available.

Prohibition

(2) No person shall remove, alter or deface a label described in clause (1) (a) that is on a container.

Material safety data sheet where substantially same facts

(3) Where there are a number of hazardous materials each consisting of a mixture of the same or substantially the same biological or chemical agents and the specific composition of the materials varies from one mixture to another, one material safety data sheet may apply to the materials if the hazard is the same or substantially the same.

Expiry

(4) A material safety data sheet or re-issued material safety data sheet shall be deemed to expire three years after the date the information contained in it was compiled but may be re-issued.

Definition

(5) For the purpose of this Act, "material safety data sheet" means a material safety data sheet to which this section applies and includes a re-issued safety data sheet.

Duty of employer re: labels and data sheets

22c.—(1) An employer shall ensure that,

- (a) a container containing hazardous material received at the work place bears a label as prescribed by clause 22b (1) (a); and
- (b) that an unexpired material safety data sheet for the material is obtained by the employer.

Transfer of materials

(2) When hazardous material is transferred in a work place of an employer from a container that is labelled as required by clause 22b (1) (a) into another container, the employer shall ensure that the container into which the hazardous material is transferred bears or has securely affixed to it a label contain-

ing the same information as is set out in the label on the container in which the hazardous material was received.

(3) Subsection (2) does not apply so as to require the labelling of a container to which hazardous material is transferred if. Non-application

(a) the transfer is made by a worker who uses the hazardous material forthwith following the transfer; or

(b) the transfer is made into a container that, without further transfers, is intended to contain the material for the purposes of disposition in the retail market.

(4) An employer shall ensure that the unexpired material safety data sheet is available in English for examination by the workers who use or handle the material and by the joint health and safety committee, if any, and, if the majority language of the work place is not English, a copy of the material safety data sheet in the majority language shall also be kept available for such examination. Examination by workers

(5) An employer is not in contravention of clause (1) (b) if the employer has made every effort reasonable in the circumstances to obtain an unexpired material safety data sheet for the material. Exception

(6) An employer shall advise a Director in writing if the employer, after making reasonable efforts, is unable to identify or obtain the identity of the ingredients of a hazardous material. Notification of Ministry

22d.—(1) An express claim may be made in a material safety data sheet that information required by the regulations to be set out in the data sheet is being withheld because the information is a trade secret. Trade secrets

(2) Where a claim as described in subsection (1) is made in a material safety data sheet, the person who has a duty under clause 22b (1) (b) and the employer, if the hazardous material is in the employer's possession, shall notify a Director of the claim and the Director shall investigate and determine whether information being withheld is a trade secret. Investigation

(3) A Director may, in any case to which subsection (2) does not apply, initiate an investigation and determine whether information is being withheld. Idem

Powers of
Director

(4) For the purposes of an investigation under this section, the Director may exercise the powers conferred upon an inspector by subsection 28 (1).

Hearing by
District
Court

(5) Within fifteen days of receiving notice of a Director's determination under subsection (2) or (3), any person affected by the determination may apply to the District Court for a determination as to whether information withheld is a trade secret.

Power of
Director

(6) Where a Director determines that withheld information is not a trade secret and no application is made under subsection (5) within the fifteen day period referred to in that subsection, the Director shall direct or cause the material safety data sheet to be amended or not, as the case may be, in accordance with the determination.

Power of
District
Court

(7) Where the District Court determines that withheld information is not a trade secret, it may order such amendments as it considers necessary to the material safety data sheet.

Extension
of time

(8) The District Court may extend the time for making an application for a hearing under subsection (5) either before or after the expiration of the fifteen day period mentioned in that subsection if the court is satisfied that there are *prima facie* grounds for relief and that there are reasonable grounds for the extension.

Inventories

(9) This section applies with all necessary modifications where an employer has advised a Director that the employer, in preparing an inventory under section 22a, is unable to identify or obtain the identity of the ingredients of any hazardous material and the Director has reason to believe that the reason therefore is that the identity is being withheld as a trade secret.

Hazardous
physical
agents

22c.—(1) A person who brings into Ontario or who, in Ontario, distributes or supplies, directly or indirectly, or manufactures, produces or designs a thing for use in a work place that causes, emits or produces a hazardous physical agent when the thing is in use or operation shall ensure that information is readily available respecting the hazardous physical agent and the proper use or operation of the thing.

Duty of
employer

(2) Where an employer has a thing described in subsection (1) in the work place, the employer shall ensure that the information referred to in that subsection has been obtained and is kept available in the work place for workers who use or

operate the thing or who are likely to be exposed to the hazardous physical agent.

(3) An employer to whom subsection (2) applies shall post prominent notices identifying and warning of the hazardous physical agent in the part of the work place in which the thing is used or operated or is to be used or operated. Idem

(4) An employer shall ensure that the information required under subsection (2) is available in English and, if the majority language of the work place is not English, the majority language of the work place and that notices required by subsection (3) are posted in those languages. Majority language

22f.—(1) In addition to providing instruction and training to a worker as prescribed by clause 14 (2) (a), an employer shall ensure that a worker exposed or likely to be exposed to a hazardous material or to a hazardous physical agent receives, and that the worker participates in, instruction and training in, Instruction and training

- (a) the appraisal of information in the labels on containers containing hazardous materials, and material safety data sheets, and of information made available in relation to hazardous physical agents;
- (b) the purpose and significance of precautions, including emergency procedures, set out in any label or material safety data sheet or in any information made available in relation to hazardous physical agents;
- (c) the necessity of special precautionary measures and procedures, if any;
- (d) the health or safety hazards associated with exposure to the hazardous material or hazardous physical agent; and
- (e) the use, purpose and limitations of protective devices and equipment to be used or worn.

(2) The instruction and training to be given under subsection (1) shall be developed by the employer in consultation with the joint health and safety committee, if any. Idem

(3) An employer shall ensure that a worker is familiarized with the matters mentioned in subsection (1) and is rehearsed in their application through performance demonstration. Idem